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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,364	09/20/2000	Hideo Suzuki	39303.20197.00	8624

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

EXAMINER

BECKER, SHAWN M

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/666,364

Applicant(s)

SUZUKI ET AL.

Examiner

Shawn M. Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 14, 20, 26-30, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 14, 20, 26-30, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to communication filed 11/30/03.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 14, 20, 26-30, and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,166,314 to Weinstock et al. (hereinafter Weinstock) and “Emagic Notator Logic Sequencing software (Macintosh)” by Jim Aikin (hereinafter Aikin).

Referring to claims 1, 14, and 20, Weinstock discloses a method for editing performance data, an apparatus, and machine-readable storing data and programs on a computer system having a display. See col. 2, lines 5-10.

Weinstock controls the computer system to display a plurality of layers on a screen of the display, wherein each of the plurality of layers is arranged with attached execution icons, the execution icon corresponding to execution-related data. See Fig. 6, which shows several categories of information, where each category is represented by a layer of information that contains execution icons for manipulating musical data. Also, refer to col. 19, line 50 - col. 20, line 8.

Weinstock provides an instruction [and a receiver for receiving the instruction] to control at least one of the layers to be placed in a display mode or a non-display mode and controls the computer system to perform or stop displaying the at least one of the layers in response to the

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instruction. See Fig. 9, which shows a Views menu in which the user may select which categories (layers) are displayed. The categories with a check beside them are displayed, while the ones that are unchecked are in a non-display mode. Also, refer to col. 24, lines 27-49.

While the layers of Weinstock may contain execution icons, *supra*, Weinstock does not explicitly teach graphically attaching the execution icons to each of the plurality of layers. However, Aikin discloses sequencing software with several layers, wherein execution icons may be graphically attached to each layer (i.e. Figs. 2-3, page 123, last full paragraph, and page 128, last full paragraph). In these sections, Aikin describes graphically selecting execution icons from a palette and placing them on a layer.

It would have been obvious to one of ordinary skill in the art to modify the layers of Weinstock such that execution icons may be graphically attached thereto as described by Aikin in order to edit, change, or add to the performance data according to the desired purpose (Weinstock at col. 2, lines 5-10), i.e. achieve the desired musical output or song as described in Aikin.

Referring to claim 26, Fig. 6 of Weinstock shows one or plural execution icons are displayed in each layer (category) on the screen of the display arranged in a prescribed direction in accordance with progression of performance data. For example, see col. 22, lines 54-67. Aikin teaches attaching execution icons to layers, *supra*.

Referring to claim 27, Weinstock discloses that each layer (category) is displayed as an execution icon layer in correspondence with the execution-related data. For example, see col. 1, lines 25-38.

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Referring to claim 28, Fig. 6 of Weinstock shows one of the execution icon layers contains a tempo icon layer. See Fig. 6, 606 and 610.

Referring to claim 29, Fig. 6 of Weinstock shows that the computer system is controlled to display a name of at least one of the plurality of layers. See how the name of each category (layer) is displayed within the layer.

Referring to claim 30, it is inherent in Weinstock that a cursor (operator) is displayed that is controlled by a mouse to control at least one of the plurality of layers. See Fig. 6 and Fig. 9.

Referring to claims 32-33, while Weinstock shows execution icons that are attached onto at least one of the plurality of layers displayed on the screen of the display (Fig. 6), Weinstock does not explicitly describe the steps of attaching an execution icon onto a layer, editing the execution icon attached to one of the layers, or editing the performance data corresponding to the execution icon that is edited. However, Aikin describes attaching an execution icon (musical notes, for example) onto a layer, editing the execution icon, and editing the performance data corresponding to the execution icon that is edited. See the sections labeled "The Matrix Window" and "The Hyper Edit Window" on page 127. It would have been obvious to one of ordinary skill in the art to combine the correlated musical score interface of Weinstock with the Sequencing and editing interface of Aikin in order to achieve an interface that correlates and edits musical data according to the liking of the musician, wherein the musician may add/edit execution icons that affect the performance data to achieve the desired musical output as taught by Aikin and correlate performance data with user selected views of information that reduce screen clutter and optimize the view for the user's needs as taught by Weinstock (col. 24, lines 27-49).

Response to Arguments

3. Applicant's arguments with respect to claims 1, 14, 20, and 26-31 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the user cannot attach execution icons to the layers of Weinstock. It should be noted that the claims do not explicitly state that it is the user that does the attaching of the icons to the layers. Weinstock shows layers that contain execution icons; therefore the layers contain attached execution icons. However, Aikin more clearly shows the step of attaching execution icons to layers. Both Weinstock and Aikin are directed to viewing/editing musical performance data, therefore one of ordinary skill in the art would have been motivated to combine each interface in order to control which layers are viewed (Weinstock at col. 24, lines 27-49) and edit the performance data through graphical icons as taught by Aikin (Figs. 2-3).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

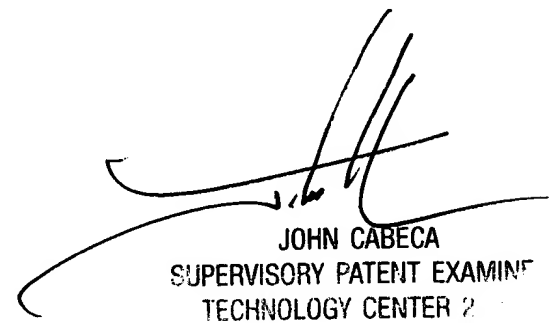
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Becker whose telephone number is 703-305-7756.

The examiner can normally be reached on M-Th 8:00 - 5:30 and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 703-305-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

smb



JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2